

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ENCAP, LLC,

Plaintiff,

v.

Case No. 11-C-685

THE SCOTTS COMPANY, LLC, et al.,

Defendants.

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**ORDER DENYING MOTION TO SEAL**

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Plaintiff Encap LLC has filed a motion to seal an exhibit attached to Defendants' motion to dismiss. The document is a "Confidential Information Memorandum" that was sent by Encap to the Defendant in 2002 as part of a possible sale of the Encap company. As is standard practice, the memorandum contained nondisclosure language instructing recipients to keep the information private. Encap states that the memorandum contains confidential business information, such as sales plans, that has never been disclosed to the public.

The memorandum was prepared in 2002 by a company called Transactive Partners, which was apparently marketing Encap as a potential acquisition target. The memo contains a background of the company, photos of its products and its plant in Green Bay, and a basic description of the products and their potential role in the markets. The document is ten years old and does not contain any apparent trade secrets or underlying data, such as chemical formulas or manufacturing processes. Nor are there disclosures of any but the most basic marketing strategies, most of which are based on publicly available information, such as economic trends (as of 2002) and population.

As the Defendants note, secrecy in federal proceedings is the exception, not the norm. On the record before me, I cannot find a reasonable basis to maintain the document at issue under seal. Accordingly, the motion to seal is **DENIED**.

**SO ORDERED** this 23rd day of April, 2012.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge